

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JERIE AVIS,)
Plaintiff,)
v.) Case No. 4:20-CV-1601 NAB
KILOLO KIJAKAZI,)
Commissioner of the Social Security)
Administration,¹)
Defendant.)

MEMORANDUM OPINION AND ORDER

This case is before the Court on Commissioner Kilolo Kijakazi's ("the Commissioner's") Motion to Reverse and Remand the case to the Commissioner for further administrative action pursuant to sentence four of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g). (Doc. 33). Plaintiff has filed a response stating that he has no objection to the motion. (Doc. 34). The parties have consented to the jurisdiction of the undersigned United States Magistrate Judge pursuant to 28 U.S.C. § 636(c)(1). (Doc. 9). Having fully considered the arguments set forth by the Commissioner, the Court grants the Motion to Reverse and Remand.

On November 10, 2020, Plaintiff filed a complaint seeking review of the Commissioner's decision that Plaintiff was not under a disability within the meaning of the Social Security Act. (Doc. 1). The Commissioner filed the answer and a certified administrative transcript on June 23,

¹ Kilolo Kijakazi became the Acting Commissioner of Social Security on July 9, 2021. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Kilolo Kijakazi should be substituted, therefore, for Andrew Saul as the defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

2021. (Docs. 19, 20). Plaintiff filed his brief in support of the Complaint on November 19, 2021. (Doc. 29).

On February 16, 2022, the Commissioner filed the instant motion to reverse and remand the case to the Commissioner for further action under sentence four of section 205(g) of the Social Security Act, which permits the court “to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner, with or without remanding the cause for a rehearing.” 42 U.S.C. § 405(g). The Commissioner represents in the motion that upon review of the record, remand is needed in this case for further evaluation of Plaintiff’s claim. (Doc. 33 at 1). The Commissioner states that “[o]n remand, the Commissioner will take further action to complete the administrative record, evaluate evidence in accordance with the applicable regulations and agency policy, and issue a new decision.” *Id.*

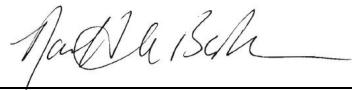
Upon review of the Plaintiff’s Complaint, the administrative transcript, and the Commissioner’s motion, the court agrees with the parties that this case should be reversed and remanded pursuant to sentence four of 42 U.S.C. § 405(g).

Accordingly,

IT IS HEREBY ORDERED that the Commissioner’s Motion to Reverse and Remand (Doc. 33) is **GRANTED**.

IT IS FURTHER ORDERED that a Judgment of Reversal and Remand will issue contemporaneously herewith remanding this case to the Commissioner of Social Security for further consideration pursuant to sentence four of 42 U.S.C. § 405(g).

IT IS FURTHER ORDERED that upon entry of the Judgment, the appeal period will begin which determines the thirty-day period in which a timely application for attorney’s fees under the Equal Access to Justice Act, 28 U.S.C. § 2412, may be filed.



NANNETTE A. BAKER
UNITED STATES MAGISTRATE JUDGE

Dated this 22nd day of February, 2022.